IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1751 OF 2006

Shridhar S. Biranje .. Petitioner
Versus
The Dist.Supply Officer,
Kolhapur and Ors. .. Respondents

Mr.S.V.Sadawarte for petitioner
Mr.P.A.Pol for respondent No.5.

CORAM : S.C.DHARMADHIKARI, J
DATE : 23rd February 2007.

P.C.

. The petitioner challenges an order passed by the Minister for Food and Civil Supplies, State of Maharashtra on 30th January 2006, confirming the order of the Dist.Supply Officer dated 17th February 2005.

2. These order pertain to the allotment of Fair Price Shop to respondent No.5 in preference

to the petitioner.

3. Mr.Sadawarte, learned Advocate appearing for petitioner submits that the orders under challenge are passed at the behest of political leaders and the allotment is not made on merits. He submits that the petitioner may be placed on par with fifth respondent as far as priority is concerned but he was otherwise eligible and stood on a better footing insofar as financial capacity and availability of premises. He also submits that the petitioner has pointed out to the Authorities that fifth respondent has no recommendation in his favour from the Gram Panchayat concerned. Instead, the local Gram Panchayat has recommended the case of petitioner for allotment. He submits that the record that is now made available to the petitioner under the Right to Information Act, would show that several criminal cases are pending against the respondent and he is disentitled to allotment of fair price

shop.

4. Taking the last contention first, it appears that the same is raised for the first time in this Court. Therefore, it is for the authorities to go into the aspect as to whether respondent No.5 in whose favour the allotment has been made, is disentitled or not qualified in any manner. The record is available with the authorities and it is for them to take an appropriate decision.

5. As far as the other contentions of Mr.Sadawarte are concerned, in my view, it is not possible to go into them in the limited jurisdiction conferred upon this Court under Article 227 of the Constitution of India. This is not a Court of further Appeal. I am unable to re-appreciate and re-appraise the materials before the authorities. That apart, the Minister as also the Dist.Supply Officer have concurred

and held that fifth respondent and petitioner are ranked in the same list of priorities. Respondent No.5 is superior because he has a higher bank balance and premises available with him. These are matters where authorities in charge of allotment of Fair Price Shop have considered the merits and de-merits of individual proposals. Their conclusions drawn from appraisal of the materials produced, unless demonstrated to be arbitrary or vitiated by malafides, are not liable for being interfered with by this Court. The allotment of Fair Price Shop to 5th respondent is made as early as January 2005. He is conducting the Fair Price Shop. In such circumstances, no case is made out for interference under Article 227 of the Constitution of India. Petition, therefore, is summarily dismissed.

(S.C.Dharmadhikari, J)